IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

CRL.A.No. 642 of 2002()

C.C.NO.436/2000 OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-I, ERNAKULAM

APPELLANT: COMPLAINANT:

M/S. TAARIKA SAREE CENTRE,
COCHIN COMPLEX, MARKET ROAD, ERNAKULAM,
REPRESENTED BY ITS PARTNER, MOHAMMED SHAFEEQ AHAMMED ANSARI.

BY ADV. SRI.V.V.ASOKAN
SMT.ASHA SUNDARAM

RESPONDENTS: ACCUSED AND NON PARTY:

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1. SANTHOSH,
PROPRIETOR, SANTHOSH FABRICS, VARKALA,
TRIVANDRUM DISTRICT, PIN-695 141.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.642 of 2002(B)

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Dated this the 16th day of October, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.436/2000 in the file of the Judicial Magistrate of the First Class-I, Ernakulam, with respect to the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(i) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 12/11/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.A.No.642 of 2002(B)

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J U D G M E N T

16th October, 2007